CUSTOMS BULLETIN AND DECISIONS

Weekly Compilation of

Decisions, Rulings, Regulations, Notices, and Abstracts

Concerning Customs and Related Matters of the

U.S. Customs Service

U.S. Court of Appeals for the Federal Circuit

and

U.S. Court of International Trade

VOL. 31 SEPTEMBER 3, 1997 NO. 36

This issue contains:

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE

NOTICE

The decisions, rulings, regulations, notices and abstracts which are published in the CUSTOMS BULLETIN are subject to correction for typographical or other printing errors. Users may notify the U.S. Customs Service, Office of Finance, Logistics Division, National Support Services Center, Washington, DC 20229, of any such errors in order that corrections may be made before the bound volumes are published.

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U.S. Customs Service

Treasury Decisions

19 CFR Part 134

(T.D. 97–72)

RIN 1515–AB82

COUNTRY OF ORIGIN MARKING

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to ease the requirement that whenever words appear on imported articles indicating the name of a geographic location other than the true country of origin of the article, the country of origin marking always must appear in close proximity and in comparable size lettering to those words preceded by the words "Made in," "Product of," or other words of similar meaning. Customs believes that, consistent with the statutory requirements of 19 U.S.C. 1304, the country of origin marking only needs to satisfy these requirements if the name of the other geographic location may mislead or deceive the ultimate purchaser as to the actual country of origin.

EFFECTIVE DATE: September 19, 1997.

FOR FURTHER INFORMATION CONTACT: Craig Walker, Office of Regulations and Rulings, 202–482–6980.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304) provides that, unless excepted, every article of foreign origin imported into the United States shall be marked in a conspicuous place as legibly, indelibly, and permanently as the nature of the article (or container) will permit, in such a manner as to indicate to the ultimate purchaser in the United States the English name of the country of origin of the article. Congressional intent in enacting 19 U.S.C. 1304 was that the ultimate purchaser should be able to know by an inspection of the marking on

the imported goods the country of which the goods are a product. Part 134, Customs Regulations (19 CFR 134), implements the country of origin marking requirements and exceptions to 19 U.S.C. 1304.

Section 134.46, Customs Regulations (19 CFR 134.46) provides that in any case in which the words "United States" or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any city or locality in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced, appear on an imported article or its container, there shall appear, legibly and permanently, in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning.

Section 134.46 was promulgated pursuant to the statutory authority of 19 U.S.C. 1304(a)(2), which provides that the Secretary of the Treasury may by regulations require the addition of any words or symbols which may be appropriate to prevent deception or mistake as to the origin of the article or as to the origin of any other article with which such imported article is usually combined subsequent to importation but before delivery to an ultimate purchaser.

A strict application of § 134.46 would require that in any case in which a non-origin locality reference appears on an imported article or its container, the actual country of origin of the article must appear in close proximity and in comparable size lettering to the locality reference preceded by the words "Made in," "Product of," or other words of similar meaning.

Because Customs believes that the strict requirements of § 134.46 are not always necessary to "prevent deception or mistake as to the origin of the article" in accordance with 19 U.S.C. 1304, Customs proposed to modify § 134.46 in a Notice of Proposed Rulemaking published in the Federal Register (60 FR 57559) on November 16, 1995.

In that document, Customs also proposed to remove § 134.36(b), which provides that an exception from marking shall not apply to any article or retail container bearing any words, letters, names or symbols described in § 134.46 or § 134.47 which imply that an article was made or produced in a country other than the actual country of origin. Since the special marking requirements of § 134.46, as proposed to be amended, would be triggered only when the the marking appearing on an imported article or its container is capable of misleading or deceiving an ultimate purchaser as to the actual country of origin of the article, § 134.36(b), which serves the same purpose, would be redundant and no longer needed.

The proposal to modify § 134.46 reflected Customs practice in applying the regulation. Customs has applied a less stringent standard in determining whether the country of origin marking appearing on an imported article or its container is acceptable. That is, Customs takes into account the question of whether the presence of words or symbols

on an imported article or its container can mislead or deceive the ultimate purchaser as to the actual country of origin of the article. Consequently, if a non-origin locality reference appears on an imported article or its container, Customs applies the special marking requirements of § 134.46 only if it finds that the reference may mislead or deceive the ultimate purchaser as to the actual country of origin of the imported article. If Customs concludes that the non-origin locality reference would not mislead or deceive an ultimate purchaser as to the actual country of origin of the imported article, Customs' policy is that the special marking requirements of § 134.46 are not triggered, and the origin marking only needs to satisfy the general requirements of permanency, legibility and conspicuousness under 19 U.S.C. 1304 and 19 CFR 134. This less stringent application is evidenced in numerous Customs headquarters ruling letters.

Analysis of Comments

A total of 17 entities responded to the proposal. Fourteen respondents supported the proposal, although some suggested certain changes. Three commenters opposed the amendment.

Comments Supporting Customs Proposal

Comments:

One commenter stated that the proposed amendment to § 134.46 would provide additional flexibility in accommodating the country of origin marking on the labels of its food products, many of which have very limited surface areas available for labelling because of their size *(e.g.*, small bags of candy, snacks, candy bars, gum).

Two commenters stated that references to places other than the country of origin are not necessarily misleading. The context must be considered. These two commenters believe that the proposed amendment would bring the country of origin marking regulations into closer conformity with the purpose and congressional intent of section 1304 and would serve the goal of informed compliance by bringing the country of origin marking regulations into closer conformity with positions taken in certain Customs rulings.

Two other commenters stated that if the proposed amendment is adopted, all rulings which require proximity even when there is no realistic possibility of confusion should be revoked. They specifically mentioned T. D. 86–129 of June 26, 1996, which currently requires that the country of origin statement on footwear and its packaging must appear in close proximity to any non-origin reference, even in circumstances where the non-origin reference would not be misleading or deceptive to the consumer. These commenters asked why shoe boxes, for example, should be held to a higher standard of compliance than other products, such as wearing apparel, where a design/decoration exception can be used for not applying the stricter marking requirements of § 134.46.

Another respondent believes that the proposal will enhance harmonization between the United States Customs Service and the Bureau of

Alcohol, Tobacco and Firearms (ATF) regarding country of origin labelling requirements of imported foreign origin alcoholic beverages. ATF labelling specialists are aware of the general Customs requirement that country of origin markings should be located on all labels of imported foreign alcoholic beverages and that these markings should meet the general requirements of permanency, legibility and conspicuousness. However, ATF labelling specialists are not usually aware of the specifics of Customs regulations or Customs rulings which interpret Customs regulations. Therefore, ATF labelling specialists may approve a label for ATF purposes which is not in strict accordance with Customs requirements.

Finally, one commenter noted its belief that the Customs proposal is consistent with the World Trade Organization Rules, Article 4.5.1. of the Codex Standard for the labelling of prepackaged foods (Codes STAN 1–1985, Rev. 1–1995). This rule provides that the "country of origin shall be declared if its omission would mislead or deceive the consumer". According to the Codex standard, it is not required that the country of origin be marked in close proximity to the words indicating a geographic non-origin location.

Response:

Customs agrees with the above comments. Any recipient of a prior ruling which may be inconsistent with this final rule should request reconsideration of such ruling in the context of the amended § 134.46.

COMMENTS SUPPORTING CUSTOMS PROPOSAL WITH SUGGESTED CHANGES

Comment:

One commenter supports Customs proposal but suggests that § 134.46 be amended to read that a country of origin mark must appear in close proximity to a non-origin geographical reference only if the reference "*will* mislead or deceive the ultimate purchaser". This commenter states that the words "may mislead or deceive" used in the proposed regulation will lead to subjective and differing interpretations. He suggests that one way of remedying this problem is to permit an importer to submit statistically significant studies concerning consumer perception of a particular non-origin geographical reference in order to demonstrate that the reference does not mislead or deceive the average consumer.

Another respondent supporting the proposal suggests that the word "may" be replaced by "is likely to" in the final rule if adopted. This will insure that the § 134.46 stricter marking requirements will be imposed not when there is a mere possibility, but rather a likelihood, of misleading or deceiving the ultimate purchaser.

Response:

Customs does not agree that the word "may" as proposed in the amendment to § 134.46 should be changed to "will" or "is likely to." Customs believes that the ultimate purchaser is provided with the greatest assurance and protection against being misled or deceived by

non-origin marks by granting Customs the discretion to decide on a case-by-case basis whether a mark "may mislead or deceive an ultimate purchaser as to the actual country of origin." As a result, Customs is able to be more flexible in deciding not to apply the stricter marking requirements of § 134.46 in every instance where a mark has a non-origin type reference. The word "will" or the phrase "is likely to" could inhibit accomplishment of these goals. Therefore, Customs does not believe that a change in the wording of the proposed amendment is necessary.

Comment:

One commenter supports Customs proposal, but suggests that if Customs adopts the proposal, it should also provide an exception for manhole covers, rings, frames and assemblies thereof covered by 19 U.S.C. 1304(e). This commenter believes that in the absence of such an exclusion from the scope of this regulation, it possibly could be interpreted as ignoring the statutory requirements of section 1304(e).

Response:

Section 1304(e) of title 19 United States Code provides that:

> No exception may be made under subsection (a)(3) of this section with respect to manhole rings or frames, covers, and assemblies thereof each of which shall be marked on the top surface with the English name of the country of origin by means of die stamping, cast-in-mold lettering, etching, engraving, or an equally permanent method of marking.

Since the special country of origin marking requirements for these articles in 19 U.S.C. 1304(e) are statutory, rather than regulatory as the requirements of § 134.46 are, the proposed change, if adopted, would have no effect on these statutory requirements. The amendment of § 134.46 will not implement any of the marking exceptions under 19 U.S.C. 1304(a)(3), and therefore will have no impact upon the general marking requirements of § 1304(e). If the proposed amendment to § 134.46 is adopted, these articles still must satisfy the statutory marking requirements of § 1304(e), regardless of § 134.46 marking. Therefore, Customs does not agree with the suggestion.

Comment:

One commenter supports Customs proposal but also encourages Customs to extend this initiative to situations arising under § 134.47 (displaying the name of a place other than the true country of origin as part of a trademark, trade name or souvenir). The commenter states that Customs practice in considering whether to apply § 134.47 also involves an analysis of potential consumer confusion arising from the use of a trademark displaying the name of a place other than the country of origin. Thus the proposed amendment would seem logically applicable to § 134.47. Furthermore, since Customs in its Notice views § 134.36(b) as aimed essentially at combating confusing, misleading, or deceptive marking, and as section 134.36(b) in turn identifies as equally confusing, misleading or deceptive those types of markings defined both by

§§ 134.46 and 134.47, it would seem that § 134.47 is as good a candidate for the proposed amendment as is § 134.46. Both are equally aimed at avoiding confusion to the ultimate purchaser.

Response:

Customs agrees with the commenter that Customs proposal of applying the stricter marking requirements of § 134.46 only if the non-origin reference "may mislead or deceive the ultimate purchaser as to the actual country or origin" should be applied to trademarks, trade names or souvenir markings which depict non-origin references. However, Customs does not agree that this change can be made under the existing proposal, but that a new proposal is required. Therefore, Customs will issue a new notice of proposed rulemaking proposing to either amend § 134.47 consistent with the determination in this document or to remove § 134.47 since § 134.46, as amended, will effectively apply to any non-origin type reference, including those which are part of a trademark, trade name or souvenir marking.

Comment:

One commenter suggests that Customs in its final rule set forth some examples of cases where the non-origin reference would likely mislead or deceive the ultimate purchaser as to the actual country of origin of the article.

Response:

Customs agrees that samples of cases where the non-origin type reference "may mislead or deceive the ultimate purchaser as to the actual country of origin of the article" would assist the importing community in better understanding the proper use of § 134.46. Therefore Customs offers the following examples of non-origin markings which Customs consistently has ruled to be misleading or deceiving to an ultimate purchaser, thus triggering the requirements of § 134.46 that the country of origin appear in close proximity and in comparable size lettering to the non-origin marking preceded by the words "Made in," "Product of," or other words of similar meaning. In each of these examples, the country of origin of the imported article is foreign.

Example 1. "A product of ABC Corp., Chicago, Illinois"
Example 2. "Manufactured by ABC Corp., California, U.S.A."
Example 3. "Manufactured and Distributed by ABC, Inc., Denver, Colorado."
Example 4. "Packed for ABC Corp., Greenville, South Carolina"

COMMENTS OPPOSING CUSTOMS PROPOSED REGULATION

Comment:

One commenter who opposed Customs proposed regulation believes that finalization of the proposed amendments would be ill-advised. This commenter urges Customs either to withdraw the proposed amendment in its entirety or to modify the amendment to maintain the existing proximity and lettering comparability requirements in cases where

the reference to the U.S. is made in the context of a statement relating to any aspect of the production or distribution of the product (*e.g.*, "Designed in U.S.A.," "Made for XYZ Corp., California, U.S.A.," or "Distributed by ABC, Inc., Colorado, U.S.A."). Specifically, the commenter is concerned that the FTC's stringent policy of generally limiting the use of "Made in U.S.A." claims to those products that are "all or virtually all" of U.S. content effectively prohibits U.S. firms which add a substantial percentage of a product's value in the U.S. from labelling it as U.S. origin. At the same time, importers are regularly permitted by Customs to label wholly foreign-made products with inconspicuous statements of the foreign origin, although these products may be festooned with American flags, brand names which expressly refer to the U.S., or statements (*e.g.*, "Designed in U.S.A.," "Made for [U.S. importer's name and address]"), which could mislead the consumer into assuming that the article was produced in the U.S. The only way to ensure that such statements regarding operations performed in the U.S. do not mislead consumers is to insist that they be coupled with the required country of origin marking in accordance with § 134.46. Furthermore, if Customs decides to proceed with the proposal or some variation of it, Customs should do so only after the conclusion of the FTC's workshop and the FTC's larger review proceeding, so that relevant information concerning consumer perception gathered in the FTC proceeding can be considered by Customs in connection with the proposed amendment to § 134.46.

Response:

Customs agrees that references to the U.S. made in the context of a statement relating to any aspect of the production or distribution of the products, such as "Designed in U.S.A.," "Made for XYZ Corp., California, U.S.A.," or "Distributed by ABC Inc., Colorado, U.S.A.," are misleading to the ultimate purchaser and would still require country of origin marking in accordance with § 134.46, even as amended by the proposal. Therefore, Customs disagrees with the idea that these types of markings would be allowed under the proposed amendment to § 134.46. In the prior comment analysis, these types of statements have been cited as examples of misleading and deceptive statements triggering the special marking requirements of § 134.46. Also, Customs does not agree that it is necessary to consider the FTC's review of consumer perception gathered during the FTC's "Made in USA" workshop in making its decision as to the issuance of the final rule amending § 134.46. Customs believes that determining whether a non-origin type reference "may mislead or deceive an ultimate purchaser as to the actual origin of the article" should be limited to the mark itself and its effect on the ultimate purchaser, not based upon extrinsic evidence of consumer perception. If Customs were required to review information about consumer perception when making a determination as to whether the non-origin reference may be misleading or deceiving to the ultimate purchaser, rather than just reviewing the mark itself as is

Customs present practice, this could result in long delays in merchandise being released.

Comment:

One commenter opposing Customs proposal believes that Customs should tighten the enforcement of the country of origin marking regulations, rather than make them more lenient.

Response:

Customs does not agree that adopting the proposed amendment would make the marking requirements for imported foreign articles more lenient. Customs has consistently applied the standard of "whether the non-origin reference may mislead or deceive an ultimate purchaser as to the actual origin" in practice and in its rulings when determining whether a non-origin type reference triggers the special marking requirements of § 134.46. As a general rule, whenever § 134.46 is applicable, the article already contains at least one country of origin marking. This section has triggered additional markings on an automatic basis. The only difference adopting the proposed amendment will make is that the standard that Customs has been applying will be codified so the public will be informed and have knowledge of it. The intent of the marking statute is to indicate to the ultimate purchaser the country of origin of a foreign article and at the same time protect an ultimate purchaser from misleading or deceptive non-origin type references. The proposed amendment to § 134.46 effectively accomplishes these goals. It also gives the Customs field offices discretion as to whether the stringent marking requirements of § 134.46 should be applied in situations where non-origin type references appearing on the article or its container are clearly not misleading or deceiving as to the actual origin of the imported article.

Comment:

Another commenter opposes Customs proposed regulation because he believes that the proposed change would open the door to litigation due to differing opinions as to what is "misleading or deceiving." This commenter observes that every time Customs sends out a Notice of Redelivery for a marking violation for merchandise which is marked with a country or locality other than the country or locality in which the merchandise was manufactured or produced, the recipient of that Notice will respond that the marking "will" not mislead or deceive the ultimate purchaser in the U.S.

Response:

Customs disagrees that the proposal would open the door to litigation due to the differing opinions as to what is "misleading or deceiving." The proposed amendment applies a standard based on whether the non-origin type reference "may mislead or deceive an ultimate purchaser as to the actual country of origin of the article" rather than "will" as the commenter mistakenly states, so that every case does not become a question of fact, as the commenter suggests.

CONCLUSION

In accordance with the analysis of comments above and after further consideration, Customs concludes that the proposed amendments to §§ 134.36(b) and 134.46 should be adopted as proposed. It is noted that certain editorial changes are made to § 134.46 which are not substantive in effect. It is also noted that Customs intends to issues a new Notice of Proposed Rulemaking regarding § 134.47, as discussed earlier.

REGULATORY FLEXIBILITY ACT AND EXECUTIVE ORDER 12866

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.),* because this regulation eases the country of origin marking requirements and thus reduces the regulatory burden, it is certified that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, the regulations are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

This document does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

DRAFTING INFORMATION

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

LIST OF SUBJECTS

Part 134

Customs duties and inspection, Labeling, Packaging and containers.

AMENDMENT TO THE REGULATIONS

For the reasons set forth in the preamble, part 134 of the Customs Regulations (19 CFR 134) is amended as set forth below.

PART 134—COUNTRY OF ORIGIN MARKING

1. The general authority citation for part 134 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States), 1304, 1624.

2. Section 134.36 is amended by revising its heading to read "Inapplicablity of Marking Exception for Articles Processed by Importer", removing the designation and heading of paragraph (a) and removing paragraph (b).

3. Section 134.46 is revised to read as follows:

§ 134.46 Marking when name of country or locality other than country of origin appears.

In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any city or location in the United States, or the name of any foreign

country or locality other than the country or locality in which the article was manufactured or produced appear on an imported article or its container, and those words, letters or names may mislead or deceive the ultimate purchaser as to the actual country of origin of the article, there shall appear legibly and permanently in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning.

GEORGE J. WEISE,
Commissioner of Customs.

Approved: July 1, 1997.
JOHN P. SIMPSON,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, August 20, 1997 (62 FR 44211)]

(T.D. 97–73)

EXTENSION OF INSPECTORATE AMERICA CORPORATION'S CUSTOMS GAUGER APPROVAL TO THE NEW SITE LOCATED IN IRONTON, OHIO

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of the extension of Inspectorate America Corp.'s Customs gauger approval to include its Ironton, OH facility.

SUMMARY: Inspectorate America Corp., of Houston, TX, a Customs approved gauger and accredited laboratory under Section 151.13 of the Customs Regulations (19 CFR 151.13), has been given an extension of its Customs gauger approval to include the Ironton, OH site. Specifically, this site has been given Customs approval under Part 151.13(a)(1) of the Customs Regulations to gauge petroleum and petroleum products, organic chemicals in bulk and liquid form and animal and vegetable oils in all Customs Ports.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 151 of the Customs Regulations provides for the acceptance at Customs Ports of laboratory analyses and gauging reports for certain products from Customs accredited commercial laboratories and approved gaugers. Inspectorate America Corp., a Customs commercial approved gauger and accredited laboratory, has applied to Customs to extend its Customs gauger approval to its Ironton, OH facility. Review

of the qualifications of the site shows that the extension is warranted and, accordingly, has been granted.

Location:

Inspectorate America Corp.'s site is located at 110 N. 3rd Street, Masonic Temple Bldg., Room 209, Ironton, OH 45638.

EFFECTIVE DATE: June 9, 1997.

FOR FURTHER INFORMATION CONTACT: Marcelino Borges, Senior Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave., NW, Washington, D.C. 20229 at (202) 927–1060.

Dated: August 12, 1997.

J.E. HARRELL,
Acting Director,
Laboratories and Scientific Service.

[Published in the Federal Register, August 25, 1997 (62 FR 45012)]

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19 CFR Part 24

(T.D. 97–45)

RIN 1515–AA57

UPDATE OF PORTS SUBJECT TO THE HARBOR MAINTENANCE FEE; CORRECTIONS

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations; corrections.

SUMMARY: This document corrects certain typographical errors that were made in the interim regulations document published in the Federal Register on June 4, 1997, which updated the list of ports that process commercial vessels that transport cargo that are subject to the Water Resources Development Act of 1986.

DATES: These corrections are effective August 26, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia Barbare, Office of Finance, (202) 927–0034.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 4, 1997, Customs published in the Federal Register (62 FR 30448) interim regulations (T.D. 97–45) which amended § 24.24 of the

Customs Regulations (19 CFR 24.24) to update the list of ports that process commercial vessels that transport cargo that are subject to the Water Resources Development Act of 1986. That document contained several typographical errors in the columns headed "Port code, port name and state" and "Port descriptions and notations", both of which may be relied on by importers in the preparation of necessary entry documentation. The errors identified are under the headings for Delaware, the District of Columbia, Illinois, Massachusetts, and Michigan, and consist of incomplete State abbreviations (for Maryland and Illinois), incorrect port codes (for East Chicago and Escanaba), and incomplete port descriptions (for Delaware and Massachusetts). Accordingly, this document corrects those typographical errors.

CORRECTIONS TO PUBLICATION

The document (FR Doc. 97–14409) published in the Federal Register (62 FR 30448) on June 4, 1997, is corrected as follows:

1. On page 30450, under the heading for "Delaware", in the column headed "Port descriptions and notations", in the second line the word "lower" is added after the words "all points on the";

2. Also on page 30450, under the heading for "District of Columbia", in the column headed "Port code, port name and state", in the first line the capital letter "D" is removed and the designation "MD" is added in its place;

3. On page 30451, under the heading for "Illinois", in the column headed "Port code, port name and state", in the third line the numbers "3902" are removed and the numbers "3904" are added in their place; and in the column headed "Port descriptions and notations", in the first line the designation "II." is removed and the designation "IL' is added in its place;

4. Also on page 30451, under the heading for "Massachusetts", in the column headed "Port descriptions and notations", in the second line the word "River" is removed and the word "Rivers" is added in its place; and

5. On page 30452, under the heading for "Michigan", in the column headed "Port code, port name and state", in the fifth line the numbers "3803" are removed and the numbers "3808" are added in their place.

Date: August 21, 1997.

HAROLD M. SINGER.
Chief,
Regulations Branch.

[Published in the Federal Register, August 26, 1997 (62 FR 45156)]

U.S. Customs Service

General Notices

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 7–1997)

AGENCY: U.S. Customs Service, Department of the Treasury.

SUMMARY: The copyrights, trademarks, and trade names recorded with the U.S. Customs Service during the month of July 1997 follow. The last notice was published in the CUSTOMS BULLETIN on July 30, 1997.

Correction or information to update files may be sent to U.S. Customs Service, IPR Branch, 1301 Constitution Avenue, N.W., (Franklin Court), Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: John F. Atwood, Chief, Intellectual Property Rights Branch, (202) 482–6960.

Dated: August 4, 1997.

JOHN F. ATWOOD,
Chief,
Intellectual Property Rights Branch.

The lists of recordations follow:

08/04/97 U.S. CUSTOMS SERVICE PAGE 1
17:27:15 IPR RECORDATIONS ADDED IN JULY 1997 DETAIL

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TNM OR MSK	OWNER NAME	RES
COP9700149	19970701	20160701	MOSAIC SURROUND/EVOLUTION	CONGOLEUM CORPORATION	N
COP9700150	19970701	20170701	BEDFORD/ADVANTAGE	CONGOLEUM CORPORATION	N
COP9700151	19970701	20170701	BRANDYWINE/EVOLUTION	CONGOLEUM CORPORATION	N
COP9700152	19970701	20160701	MELROSE/MAJESTIC	CONGOLEUM CORPORATION	N
COP9700153	19970701	20160701	MEDALLION/CAREFREE	CONGOLEUM CORPORATION	N
COP9700154	19970701	20160701	CLOISONNE/DESIGNER CAREFREE	CONGOLEUM CORPORATION	N
COP9700155	19970701	20160701	AMERICAN PINE/FORUM WOOD PLANK	CONGOLEUM CORPORATION	N
COP9700156	19970708	20170708	NEPTUNE'S DAUGHTER BARBIE	MATTEL, INC.	N
COP9700157	19970708	20170708	TAMAGOTCHI CHARACTER LIST (SCREEN DISPLAYS)	KABUSHIKI KAISHA WIZ	N
COP9700158	19970708	20170708	I LOVE JESUS IV	SILKMILL CORP.	N
COP9700159	19970708	20170708	I LOVE JESUS VII	SILKMILL CORP.	N
COP9700160	19970709	20160709	IT'S SHOE TIME	AARON BASHA	N
COP9700161	19970710	20160709	BASECODE, AHA-694W CS=A500	ADAPTEC, INC.	N
COP9700162	19970710	20160710	BASECODE, AHA-3940/3940H BIOS V1.13S-IBM CS=F600 916906	ADAPTEC, INC.	N
COP9700163	19970710	20160710	BASECODE, AHA-3940/3940H BIOS V1.14 CS=BC00 916905-00	ADAPTEC, INC.	N
COP9700164	19970710	20170710	MOLE MANIA (GAME BOY VERSION)	NINTENDO OF AMERICA, INC.	N
COP9700165	19970715	20170715	CHELSEA	H. K. ENTERPRISES	N
COP9700166	19970715	20170715	BORDEAUX QUILT	H. K. ENTERPRISES	N
COP9700167	19970715	20170715	TETRIS 2 (NES VERSION)	NINTENDO OF AMERICA	N
COP9700168	19970715	20170715	PUPPY PALS - TERRIER (ITEM NO#97015)	SING YIP TOYS MANUFACTORY LIMITE	N
COP9700169	19970715	20170715	THREE (3) POSITIONABLE POSEABLE GORILLA, TY INC.	TY WARNER	N
COP9700170	19970715	20170715	CHOCOLATE #4015 POSEABLE MOOSE, TY INC.	TY WARNER	N
COP9700171	19970715	20170715	LEGS #4020 POSEABLE FROG, TY INC.	TY WARNER	N
COP9700172	19970715	20170715	PATTI #4025 POSEABLE PLATYPUS, TY INC.	TY WARNER	N
COP9700173	19970715	20170715	PINCHERS #4026 POSEABLE LOBSTER, TY INC.	TY WARNER	N
COP9700174	19970715	20170715	SPLASH #4022 POSEABLE WHALE, TY INC.	TY WARNER	N
COP9700175	19970715	20170715	SPOT #4000 POSEABLE DOG, TY INC.	TY WARNER	N
COP9700176	19970715	20170715	CUBBIE #4010 POSEABLE BEAR, TY INC.	TY WARNER	N
COP9700177	19970716	20170716	SQUEALER #4005 POSEABLE PIG, TY INC.	TY WARNER	N
COP9700178	19970716	20170716	BONES #4001 POSEABLE DOG, TY INC.	TY WARNER	N
COP9700179	19970716	20170716	DAISY #4006 POSEABLE COW, TY INC.	TY WARNER	N
COP9700180	19970716	20170716	I LOVE JESUS V	SILKMILL CORPORATION	N
COP9700181	19970716	20170715	DONKEY KONG COUNTRY (SUPER NES VERSION)	NINTENDO OF AMERICA INC.	N
COP9700182	19970716	20170711	MYSTIC #4007 POSEABLE UNICORN, TY INC.	TY WARNER	N
COP9700183	19970716	20170716	QUACKERS #4024 POSEABLE DUCK, TY INC.	TY WARNER	N
COP9700184	19970716	20170716	BLACKIE #4011 POSEABLE BEAR, TY INC.	TY WARNER	N
COP9700185	19970716	20170711	CHILLY #4012 POSEABLE POLAR BEAR, TY INC.	TY WARNER	N
COP9700186	19970716	20170711	PEKING #4013 POSEABLE PANDA, TY INC.	TY WARNER	N
COP9700187	19970716	20170716	GOLDIE #4023 POSEABLE FISH, TY INC.	TY WARNER	N
COP9700188	19970716	20170716	DIGGER #4027 POSEABLE CRAB, TY INC.	TY WARNER	N
COP9700189	19970716	20170716	INKY #4028 POSEABLE OCTOPUS, TY INC.	TY WARNER	N
COP9700190	19970716	20170716	SEAMORE #4029 POSEABLE SEAL, TY INC.	TY WARNER	N
COP9700191	19970716	20170716	SPEEDY #4030 POSEABLE TURTLE, TY INC.	TY WARNER	N
COP9700192	19970716	20170716	SLITHER #4031 POSEABLE SNAKE, TY INC.	TY WARNER	N
COP9700193	19970716	20170716	ALLY #4032 POSEABLE ALLIGATOR, TY INC.	TY WARNER	N
COP9700194	19970716	20170716	LUCKY #4040 POSEABLE LADYBUG, TY INC.	TY WARNER	N
COP9700195	19970716	20170716	WEB #4041 POSEABLE SPIDER, TY INC.	TY WARNER	N
COP9700196	19970716	20170716	TRAP #4042 POSEABLE MOUSE, TY INC.	TY WARNER	N
COP9700197	19970716	20170716	TEDDY #4050 POSEABLE BEAR, TY INC.	TY WARNER	N

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TNM OR MSK	OWNER NAME	REC
COP9700198	19970716	20170716	HUMPHREY #4060 POSEABLE CAMEL, TY INC.	TY WARNER	N
COP9700199	19970716	20170716	HAPPY #4061 POSEABLE HIPPO, TY INC.	TY WARNER	N
COP9700200	19970716	20170716	ZIP #4004 POSEABLE CAT, TY INC.	TY WARNER	N
COP9700201	19970716	20170716	TEDDY #4050 POSEABLE BEAR, TY INC.	TY WARNER	N
COP9700202	19970716	20170716	VALENTINO #4058 POSEABLE BEAR, TY INC.	TY WARNER	N
COP9700203	19970717	20170717	STRIPE #4065 POSEABLE TIGER, TY INC.	TY WARNER	N
COP9700204	19970717	20170717	KIWI #4070 POSEABLE TOUCAN, TY INC.	TY WARNER	N
COP9700205	19970717	20170717	CAW #4071 POSEABLE CROW, TY INC.	TY WARNER	N
COP9700206	19970717	20170717	WADDLE #4075 POSEABLE PENQUIN, TY INC.	TY WARNER	N
COP9700207	19970717	20170717	STING #4077 POSEABLE RAY, TY INC.	TY WARNER	N
COP9700208	19970717	20170717	PINKY #4072 POSEABLE FLAMINGO, TY INC.	TY WARNER	N
COP9700209	19970717	20170717	REX #4086 POSEABLE TYRANNOSAURUS, TY INC.	TY WARNER	N
COP9700210	19970717	20170717	STEG #4087 POSEABLE STEGOSAURUS, TY INC.	TY WARNER	N
COP9700211	19970717	20170717	BRONTY #4085 POSEABLE BRONTOSAURUS, TY INC.	TY WARNER	N
COP9700212	19970717	20170709	SFC CIC FOR NINTENDO K.K.-1	NINTENDO OF AMERICA INC.	N
COP9700213	19970717	20170709	SFC CIC FOR NINTENDO K.K.-2	NINTENDO OF AMERICA INC.	N
COP9700214	19970717	20170717	SPOOKY #4090 POSEABLE GHOST, TY INC.	TY WARNER	N
COP9700215	19970717	20170717	RADAR #4091 POSEABLE BAT, TY INC.	TY WARNER	N
COP9700216	19970717	20170717	INCH #4044 POSEABLE CATERPILLAR, TY INC.	TY WARNER	N
COP9700217	19970717	20170717	MAGIC #4088 POSEABLE DRAGON, TY INC.	TY WARNER	N
COP9700218	19970717	20170717	TABASCO #4002 POSEABLE BULL, TY INC.	TY WARNER	N
COP9700219	19970717	20170711	BESSIE #4009 POSEABLE COW, TY INC.	TY WARNER	N
COP9700220	19970717	20170717	DERBY #4008 POSEABLE HORSE, TY INC.	TY WARNER	N
COP9700221	19970717	20170717	NANA #4067 POSEABLE MONKEY, TY INC.	TY WARNER	N
COP9700222	19970717	20170717	ZIGGY #4063 POSEABLE ZEBRA, TY INC.	TY WARNER	N
COP9700223	19970717	20170717	VELVET #4064 POSEABLE PANTHER, TY INC.	TY WARNER	N
COP9700224	19970717	20170717	PEANUT #4062 POSEABLE ELEPHANT, TY INC.	TY WARNER	N
COP9700225	19970717	20170717	LIZZY #4033 POSEABLE LIZARD, TY INC.	TY WARNER	N
COP9700226	19970717	20170717	FLUTTER #4043 POSEABLE BUTTERFLY, TY INC.	TY WARNER	N
COP9700227	19970717	20170717	STINKY #4017 POSEABLE SKUNK, TY INC.	TY WARNER	N
COP9700228	19970717	20170717	NIP #4003 POSEABLE CAT, TY INC.	TY WARNER	N
COP9700229	19970717	20170717	FLIP #4012 POSEABLE CAT, TY INC.	TY WARNER	N
COP9700230	19970717	20170717	GRUNT #4092 POSEABLE RAZORBACK, TY INC.	TY WARNER	N
COP9700231	19970717	20170717	TANK #4031 POSEABLE ARMADILLO, TY INC.	TY WARNER	N
COP9700232	19970717	20170717	CHOPS #4019 POSEABLE LAMB, TY INC.	TY WARNER	N
COP9700233	19970718	20170718	EARS #4018 POSEABLE RABBIT, TY INC.	TY WARNER	N
COP9700234	19970718	20170718	SEAWEED #4080 POSEABLE OTTER, TY INC.	TY WARNER	N
COP9700235	19970718	20170718	MANNY #4081 POSEABLE MANATEE, TY INC.	TY WARNER	N
COP9700236	19970718	20170718	TWIGS #4068 POSEABLE GIRAFFE, TY INC.	TY WARNER	N
COP9700237	19970718	20170718	BUCKY #4016 POSEABLE BEAVER, TY INC.	TY WARNER	N
COP9700238	19970718	20170718	RINGO #4014 POSEABLE RACOON, TY INC.	TY WARNER	N
COP9700239	19970718	20170718	HOOT #4073 POSEABLE OWL, TY INC.	TY WARNER	N
COP9700240	19970718	20170718	DAUCHAND DOG #4013, TY INC.	TY WARNER	N
COP9700241	19970718	20170718	NANA #4067 POSEABLE MONKEY, TY INC.	TY WARNER	N
COP9700242	19970718	20170718	WALLY #7423 WALRUS, TY INC.	TY WARNER	N
COP9700243	19970722	20140722	CONTESSA - UNCOOKED SHRIMP	ZB INDUSTRIES, INC.	N
COP9700244	19970729	20170729	FELIX THE CAT - ARTIST'S CHARTS	FELIX THE CAT PRODUCTIONS, INC.	N
COP9700245	19970731	20170731	PLAZA COURT	CONGOLEUM CORPORATION	N
COP9700246	19970731	20170731	STONEMILL (INTRIGUE)	CONGOLEUM CORPORATION	N

08/04/97 U.S. CUSTOMS SERVICE PAGE 3
17:27:15 IPR RECORDATIONS ADDED IN JULY 1997 DETAIL

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, TNM OR MSK	OWNER NAME	RES
COP9700247	19970731	20170731	NAVY WEDDING RING	L. KEE & CO., INC. DBA KEECO	N
SUBTOTAL RECORDATION TYPE			99		
TMK9700459	19970731	20070204	COOLER & MORE	OUTER CIRCLE PRODUCTS, LTD.	Y
TMK9700460	19970703	20070709	CORRECTOL STYLIZED	SCHERING-PLOUGH HEALTHCARE PRODU	N
TMK9700461	19970708	20020921	BBS	BBS OF AMERICA, INC.	N
TMK9700462	19970708	20031203	VAN ELI STYLIZED AND SHOE DESIGN	WOLFF SHOE COMPANY	Y
TMK9700463	19970708	20080326	VANELI STYLIZED	WOLFF SHOE COMPANY	Y
TMK9700464	19970708	20061203	VAN ELI STYLIZED	WOLFF SHOE COMPANY	Y
TMK9700465	19970708	20051017	VANELI II STYLIZED	WOLFF SHOE COMPANY	Y
TMK9700466	19970708	20080503	TNT	PYRODYNE AMERICAN CORP.	Y
TMK9700467	19970709	20061119	MONTES ALPHA	DISCOVER WINE S.A.	N
TMK9700468	19970709	20050909	NAO & DESIGN	LLADRO USA, INC.	N
TMK9700469	19970710	20070329	SICILIA	SIDAG AKTIENGESELLSCHAFT	N
TMK9700470	19970710	20070128	AZTECA STYLIZED AND DESIGN	ANTONIO GONZALEZ	Y
TMK9700471	19970715	20010609	CYCLO	SUMITOMO HEAVY INDUSTRIES LTD.	N
TMK9700472	19970715	20010331	SM-CYCLO	SUMITOMO HEAVY INDUSTRIES LTD.	N
TMK9700473	19970715	20090822	CYCLO AND DESIGN	SUMITOMO HEAVY INDUSTRIES LTD.	N
TMK9700474	19970715	20020512	BIN	BPI COMMUNICATIONS, INC.	N
TMK9700475	19970715	20030607	EVALITE	MONARCH RUBBER COMPANY	N
TMK9700477	19970716	20070422	OVAL SHAPE OF A PACKAGE DESIGN	R. EXPO USA LTD.	N
TMK9700478	19970716	20060820	ZODIAC	R. EXPO USA LTD.	N
TMK9700479	19970716	20060716	SWAGAT	R. EXPO USA LTD.	N
TMK9700480	19970716	20070415	PACKAGE DESIGN	R. EXPO USA LTD.	N
TMK9700481	19970716	20041004	B. MOSS CLOTHING COMPANY	MORAY INC.	Y
TMK9700482	19970716	20060123	NO. 1939	MORAY INC.	Y
TMK9700483	19970716	20050613	B. MOSS LOGO	MORAY INC.	Y
TMK9700484	19970716	20070204	A DESIGN OF A MIXER	MACKIE DESIGN INC.	N
TMK9700485	19970716	20060326	HALDIRAM'S AND DESIGN	CALIFORNIA CERTIFIED IMPORT & EX	Y
TMK9700486	19970716	20070513	SUPER HAULER	P.W. HOO & SONS INC. DBA ABC	Y
TMK9700487	19970716	20020727	THUNDERBOLT AND DESIGN	AMERICAN SPORTING GOODS CORP.	Y
TMK9700488	19970716	20020727	AVIA AND THUNDERBOLT DESIGN	AMERICAN SPORTING GOODS CORP.	Y
TMK9700489	19970716	20050716	AVIA AND THUNDERBOLT DESIGN	AMERICAN SPORTING GOODS CORP.	Y
TMK9700490	19970716	20050909	AVIA	AMERICAN SPORTING GOODS CORP.	Y
TMK9700491	19970716	20070325	CIRCUIT BREAKER CONFIGURATION	AMERICAN CIRCUIT BREAKER CORP.	Y
TMK9700492	19970717	20070121	"TURBRO," & CONFIGURATION OF A BARBECUE GRILLS	BARBEQUE INC.	N
TMK9700493	19970717	20010125	RIVE GAUCHE	YVES SAINT LAURENT INTERNATIONAL	N
TMK9700494	19970718	20070603	MISCELLANEOUS DESIGN (IRON CLUBHEAD FACE W/TEE DESIGN)	TAYLOR MADE GOLF COMPANY	N
TMK9700495	19970718	20070408	COLD AS ICE	DARCY LEE	N
TMK9700496	19970724	20070610	MISCELLANEOUS DESIGN (IRON CLUBHEAD FACE W/COPPER TEE D	TAYLOR MADE GOLF COMPANY	N
TMK9700497	19970724	20091107	SAILING BOAT BRAND AND DESIGN	GUANGDONG CEREALS & OILS IMPORT	N
TMK9700498	19970725	20070210	ALFANI	FERDERATED DEPARTMENT STORES, IN	Y
TMK9700499	19970725	19980613	FONSECA	MANUFACTURA DE TABACOS (MATASA)	N
TMK9700500	19970725	20030817	PLANET HOLLYWOOD STYLIZED (SERVICE MARK)	PLANET HOLLYWOOD (REGION IV), IN	N
TMK9700501	19970725	20040614	PLANET HOLLYWOOD STYLIZED AND DESIGN	PLANET HOLLYWOOD (REGION IV), IN	N
TMK9700502	19970725	20050418	PLANET HOLLYWOOD (SERVICE MARK)	PLANET HOLLYWOOD (REGION IV), IN	N
TMK9700503	19970725	20050912	PLANET HOLLYWOOD STYLIZED AND DESIGN	PLANET HOLLYWOOD (REGION IV), IN	N
TMK9700504	19970725	20030615	PLANET HOLLYWOOD (SERVICE MARK)	PLANET HOLLYWOOD (REGION IV), IN	N

REC NUMBER	EFF DT	EXP DT	NAME OF COP, TMK, THM OR MSK	OWNER NAME	REC
TMK9700505	19970725	20031012	PLANET HOLLYWOOD STYLIZED AND DESIGN (SERVICE MARK)	PLANET HOLLYWOOD (REGION IV), IN	N
TMK9700506	19970729	20081011	EXCALIBUR	J. PHILIP HUMFREY INTERNATIONAL,	N
TMK9700507	19970731	20000522	AMERICAN EAGLE OUTFITTERS	RETAIL ROYALTY COMPANY	Y
TMK9700508	19970731	20050905	AMERICAN EAGLE OUTFITTERS	RETAIL ROYALTY COMPANY	Y
TMK9700509	19970731	20050509	AMERICAN EAGLE OUTFITTERS	RETAIL ROYALTY COMPANY	Y
TMK9700510	19970731	20050926	AMERICAN EAGLE OUTFITTERS	RETAIL ROYALTY COMPANY	Y
TMK9700511	19970731	20070408	AMERICAN EAGLE OUTFITTERS	RETAIL ROYALTY COMPANY	Y
TMK9700512	19970731	20070121	AMERICAN EAGLE OUTLET	RETAIL ROYALTY COMPANY	Y
TMK9700513	19970731	20050207	AEO	RETAIL ROYALTY COMPANY	Y
TMK9700514	19970731	20051107	AEO	RETAIL ROYALTY COMPANY	Y
TMK9700515	19970731	20050425	AEO	RETAIL ROYALTY COMPANY	Y
TMK9700516	19970731	20060521	AEO	RETAIL ROYALTY COMPANY	Y
TMK9700517	19970731	20021104	OMEGA	OMEGA SA	N
TMK9700518	19970731	20040728	OMEGA & DESIGN	OMEGA SA	N
TMK9700519	19970731	20040728	OMEGA & DESIGN	OMEGA SAO	N
TMK9700520	19970731	20070222	KK	KOHLER COMPANY	N
TMK9700521	19970731	20010309	A & W STYLIZED AND DESIGN	A & W CONCENTRATE COMPANY	N
TMK9700522	19970731	20051212	BROWN BETTY	VINELLI INDUSTRIES LTD.	N
TMK9700523	19970731	20070204	FINGER PUMPS	PETER C. REILLY	Y
TMK9700524	19970731	20060128	GUARINA	GOYA FOODS INC.	N
TMK9700525	19970731	20040614	BROOKS BROTHERS	BROOKS BROTHERS INC.	N
TMK9700526	19970731	20040705	UROWAVE	DORNIER MEDICAL SYSTEMS INC.	N
TMK9700527	19970731	20040830	REELECT	DORNIER MEDICAL SYSTEMS INC.	N
TMK9700528	19970731	20040426	DORNIER LITHOTRIPTER COMPACT	DORNIER MEDICAL SYSTEMS INC.	N
TMK9700529	19970731	20061019	RALPH LAUREN AND DESIGN	POLO RALPH LAUREN, L.P.	N

SUBTOTAL RECORDATION TYPE 70

TOTAL RECORDATIONS ADDED THIS MONTH 169

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, August 20, 1997.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

PATRICIA A. TODARO,
Director,
Operational Oversight Division,
Office of Regulations and Rulings.

PROPOSED REVOCATION OF CUSTOMS RULING LETTER RELATING TO TARIFF CLASSIFICATION OF BUCKLE ASSEMBLIES OF SAFETY SEAT BELTS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of tariff classification ruling letter.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 [19 U.S.C. 1625(c)(1)], as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling pertaining to the tariff classification of a buckle assembly of an automotive seat belt system. Customs invites comments on the correctness of the proposed revocation.

DATE: Comments must be received on or before October 3, 1997.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Tariff classification Appeals Division, 1301 Constitution Avenue, NW, (Franklin Court), Washington, D.C. 20229. Comments submitted may be inspected at the Tariff Classification Appeals Division, Office of Regulations and Rulings, located at Franklin Court, 1099 14th Street, NW, Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Herminto M. Castro, Tariff Classification Appeals Division (202) 482–7030.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 625(c)(1), Tariff Act of 1930 [19 U.S.C. 1625(c)(1)], as amended by section 623 of Title VI (Customs Moderniza-

tion) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling pertaining to the tariff classification of a buckle assembly of an automotive seat belt system. Customs invites comments on the correctness of the proposed revocation.

In NY Ruling Letter (NY) 807765, issued on March 22, 1995, Customs classified the buckle assembly as other parts and accessories of motor vehicles under subheading 8708.99.8080, Harmonized Tariff Schedule of the United States (HTSUS). This classification was based on the item's primary function, which Customs determined as "to join with the auto safety belt set lap front to support restraint." NY 807765 is set forth in "Attachment A" to this document.

Based on new evidence presented and examination of the sample submitted, Customs now believes that the buckle assembly is properly classifiable under subheading 8708.29.50, as other parts and accessories of bodies (including cabs). Customs intends to revoke NY 807765 to reflect the proper classification of the buckle assembly as other parts and accessories of bodies (including cabs) in subheading 8708.29.50, HTSUS. Before taking this action, we will give consideration to any written comments timely received. Proposed Headquarters ruling 960308, revoking NY 807765, is set forth as "Attachment B" to this document.

Claims for detrimental reliance under section 177.9, Customs Regulations (19 CFR 177.9), will not be entertained for actions occurring on or after the date of publication of this notice.

Dated: August 12, 1997.

MARVIN M. AMERNICK,
(for John Durant, Director,
Tariff Classification Appeals Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
New York, NY, March 22, 1995.

CLA–2–87:S:N:N1:101–807765
Category: Classification
Tariff No. 8708.99.8080

MR. RAUL CAMPOS
TRW VEHICLE SAFETY SYSTEMS, INC.
3801 Ursula
McAllen, TX 78503

Re: The tariff classification of automotive seat belt parts from Mexico.

DEAR MR. CAMPOS:

In your letter dated March 2, 1995 you requested a tariff classification ruling.

You have submitted a sample of a buckle assembly which is a part of an automotive seat belt system. Its primary purpose is to join with the auto safety belt set lap front to support restraint.

The applicable subheading for the buckle assembly will be 8708.99.8080, Harmonized Tariff Schedule of the United States (HTS), which provides for other parts and accessories of motor vehicles. The rate of duty will be 3 percent *ad valorem*.

This ruling is being issued under the provisions of Section 177 of the Customs Regulations (19 C.F.R. 177).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

JEAN F. MAGUIRE,
Area Director,
New York Seaport.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA–2 RR:TC:MM 960308 HMC
Category: Classification
Tariff No. 8708.29.50

MR. RAUL CAMPOS
TRW VEHICLE SAFETY SYSTEMS, INC.
3801 Ursula St.
McAllen, TX 78503

Re: Buckle assembly; subheadings 8708.29.50 and 8708.99.0080; parts and accessories of motor vehicles of Headings 8701 to 8705; other parts and accessories of bodies; NY 807765, revoked.

DEAR MR. CAMPOS:

This is in response to your request for reconsideration of New York Ruling (NY) 807765, dated March 22, 1995. In NY 807765, Customs classified a buckle assembly of an automotive seat belt system under subheading 8709.99.8080 of the Harmonized Tariff Schedule of the United States (HTSUS), as other parts and accessories of motor vehicles.

Facts:

NY 807765 described the merchandise as a buckle assembly that was part of an automobile seat belt system. Its primary purpose was described as "to join with the auto safety belt

set lap front to support restraint." Based on this description, the merchandise was classified under subheading 8708.99.8080, HTSUS, as other parts and accessories of motor vehicles. An examination of the sample submitted now shows that the merchandise is a strip of webbing sewn through the hole of a metal buckle encased in hard plastic housing on one end and sewn through the hole of a metal "anchor" on the other end.

Issue:

Whether the buckle assembly is classifiable as other parts and accessories of motor vehicles under 8708.99.80, HTSUS, or as other parts and accessories of bodies under 8708.29.50, HTSUS.

Law and Analysis:

Merchandise is classifiable under the HTSUS, in accordance with the General Rules of Interpretation (GRIs). GRI 1 states in part that for legal purposes, classification shall be determined according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6. GRI 6 states that the classification of goods in the subheadings of a heading shall be determined according to the terms of those subheadings and any related subheading notes and, *mutatis mutandis*, to the above rules, on the understanding that only subheadings at the same level are comparable. For the purposes of this rule, the relative section, chapter and subchapter notes also apply, unless the context otherwise requires.

Heading 8708 provides for parts and accessories of the motor vehicles of headings 8701 to 8705. Safety seat belts are described in subheading 8708.21.00 which also includes other parts and accessories of bodies (including cabs). There is no specific provision for parts of safety seat belts. Customs believes that parts of safety seat belts are provided by subheading 8708.29.50, the basket provision for other parts and accessories of bodies (including cabs).

Based on new evidence presented and the examination of the sample submitted, Customs now finds that the buckle assembly's primary purpose, when anchored to the interior of a vehicle body, is to form half of an automotive seat belt safety system. When the buckle of this item is clasped to an automotive seat belt insert, the whole provides a safety restraint for seated passengers. We therefore conclude that the applicable subheading for the buckle assembly is 8708.29.50, HTSUS, the subheading applicable to parts of seat belts, and not subheading 8708.99.80, HTSUS.

Holding:

The buckle assembly is provided for in heading 8708, HTSUS. They are classifiable under subheading 8708.29.50, HTSUS, as "Other parts and accessories of bodies: Other: Other."

Effect on Other Rulings:

NY 807765, dated March 22, 1995, is revoked.

JOHN DURANT,
Director,
Tariff Classification Appeals Division.

U.S. Customs Service

Proposed Rulemaking

19 CFR Part 118

RIN 1515–AC07

CENTRALIZED EXAMINATION STATIONS

AGENCY: Customs Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations regarding the establishment and scope of operation of Centralized Examination Stations (CESs). To reflect Customs interest in maximizing compliance with export control laws and regulations without unduly impeding the movement of outbound merchandise, it is proposed to expand the definition of a CES to allow merchandise intended to be exported as well as imported merchandise to be handled by a CES. Further, Customs is proposing to allow for the inspection of outbound cargo at CESs at ports other than the shipment's designated port of exit. To make the CES application procedure more amenable to local conditions, Customs is proposing more flexibility regarding the time frame for an applicant to conform a facility to meet Customs security or other physical or equipment requirements. Lastly, Customs is proposing to amend one of the criteria on the application to operate a CES because Customs believes it is too subjective. These changes are proposed in order to keep the CES program responsive to both Customs and the trade community's demands for the facilitated examinations of trade merchandise.

DATES: Comments must be received on or before October 20, 1997.

ADDRESS: Comments (preferably in triplicate) must be submitted to the U.S. Customs Service, ATTN: Regulations Branch, Franklin Court, 1301 Constitution Avenue, NW., Washington, D.C. 20229, and may be inspected at the Regulations Branch, 1099 14th Street, NW., Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

For Policy Inquiries: Steven T. Soggin, Office of Field Operations, Trade Compliance, (202) 927–0765;

For Legal Inquiries: Jerry Laderberg, Office of Regulations and Rulings, Entry Procedures and Carriers Branch, (202) 482–7052.

SUPPLEMENTARY INFORMATION:

BACKGROUND

In T.D. 93–6 (58 FR 5596) Customs amended the Customs Regulations (19 CFR Chapter 1) to create a new Part 118 that set forth the regulatory framework for the establishment, operation, and termination of Centralized Examination Stations (CESs). A CES is a privately-operated facility, not in the charge of a Customs officer, at which imported merchandise is made available to Customs officers for physical examination.

Currently, CESs are authorized to provide inspectional facilities for Customs officers to examine only imported merchandise. However, because merchandise intended to be *exported* often is required to be examined, Customs would like CESs to be authorized to provide inspectional facilities for this merchandise as well. Customs has statutory authority to inspect merchandise intended to be exported pursuant to 22 U.S.C. 401, concerning the exportation of munitions and other articles, and 31 U.S.C. 5317, concerning the search and forfeiture of monetary instruments. Further, Customs broad authority to conduct warrantless examinations of outbound merchandise has long been recognized by the courts. *See e.g., United States v. Udofot,* 711 F.2d 831, 839 (8th Cir. 1983), *cert. denied,* 464 U.S. 896 (1983); *United States v. Ajlouny,* 629 F.2d 830, 834 (2d Cir. 1980), *cert. denied,* 449 U.S. 111 (1981); *United States v. Stanley, et al.,* 545 F.2d 661, 665–67 (9th Cir. 1976), *cert. denied,* 436 U.S. 917 (1978); *cf., California Bankers Ass'n v. Shultz,* 416 U.S. 21, 63 (1974). Accordingly, to reflect the authority to inspect merchandise intended to be exported, the authority citation for Part 118 is revised. Also, Customs proposes to amend the first sentence of § 118.1 by removing the word "imported" to allow CESs to provide inspectional facilities for merchandise regardless of whether it is inbound or outbound.

Customs ability to inspect at inland ports shipments scheduled for export from another port is authorized at the functional equivalent of the border. *See, United States v. Udofot,* 711 F.2d 831 (8th Cir. 1983), *cert. denied,* 464 U.S. 896 (1983); *United States v. Hernandez-Salazar,* 813 F.2d 1126 (11th Cir. 1987). To conduct such inspections at locations other than the port of export, the exportation must be imminent and the goods committed to export. Accordingly, should a carrier, freight forwarder, or shipper wish to have its shipment inspected at a CES at a port other than the designated port of export, sufficient evidence that exportation is imminent and that the goods are committed to export must be made available to Customs. Alternatively, evidence of the shipper's consent to Customs inspection at an inland port may be presented. To advise the exporting community of Customs requirements for inspecting merchandise declared for export at a port other than the port of exit, Customs proposes to further amend § 118.1 by adding a new sentence at the end that provides that either proof of the shipper's consent to the inspection must be furnished or transportation documents must ac-

company outbound shipments to evidence that the exportation of the goods is imminent and that the goods are committed to export.

Pursuant to the provisions of 19 CFR 118.4(g), the CES operator is required to maintain a custodial bond. The terms and conditions of the custodial bond obligate the bond principal to accept only merchandise authorized under Customs Regulations (see 19 CFR 113.63(a)(2)), and keep safe any merchandise placed in its custody (see 19 CFR 113.63(b)(2)). A proposed amendment to § 118.4(g) makes it clear that the CES operator is authorized to accept and must keep safe all merchandise that is delivered for examination. Accordingly, the custodial bond will guarantee the receipt and safekeeping of merchandise delivered for an import or export examination.

Regarding the application procedure to operate a CES, paragraph (b) of § 118.11 currently provides that where a significant capital expenditure would be required in order for an existing facility to meet security or other physical or equipment requirements necessary for the CES operation, an applicant may request in the application, and the port director may allow, up to an additional 30 calendar days after tentative selection to conform the facility to such requirements. Because compliance with the 30-calendar-day time-frame requirement for significant capital expenditures is subject to building permits and other requirements of a local nature, which may not be forthcoming within the time period specified, this requirement imposes a burdensome condition in the application procedure, which may operate to dissuade many potential applicants from applying to become CES operators. Accordingly, Customs proposes to remove this requirement and instead allow the time frames for making capital improvements to a facility to be addressed locally.

Further, paragraph (g) of this same section currently provides that an applicant must present any information showing the applicant's experience in international cargo operations and knowledge of Customs procedures and regulations, "or a commitment to acquire that knowledge." Because a demonstrable knowledge of such operations, procedures, and regulations is essential prior to selection as a CES operator, the alternative "commitment to acquire that knowledge" language in the regulation is too subjective a standard by which to measure an applicant's credentials to operate a CES. Accordingly, Customs proposes to remove this language.

COMMENTS

Before adopting this proposal as a final rule, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4 of the Treasury Department Regulations (31 CFR 1.4), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch,

U.S. Customs Service, 1099 14th Street, NW., Suite 4000, Washington, D.C.

REGULATORY FLEXIBILITY ACT

Pursuant to provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities, because the amendments would operate to confer new benefits on potential CES operations, by allowing them to perform more services. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

EXECUTIVE ORDER 12866

This document does not meet the criteria for a "significant regulatory action" as defined in E.O. 12866.

LIST OF SUBJECTS IN 19 CFR PART 118

Administrative practice and procedure, Customs duties and inspection, Examination stations, Exports, Imports, Licensing, Reporting and recordkeeping requirements.

PROPOSED AMENDMENT

For the reasons stated above, it is proposed to amend Part 118, Customs Regulations (19 CFR Part 118), as set forth below:

PART 118—CENTRALIZED EXAMINATION STATIONS

1. The authority citation for part 118 is revised to read as follows:

Authority: 19 U.S.C. 66, 1499, 1623, 1624; 22 U.S.C. 401; 31 U.S.C. 5317.

2. In § 118.1, the first sentence is amended by removing the word "imported", and a new sentence is added at the end to read as follows:

§ 118.1 Definition.

* * * To present outbound cargo for inspection at a CES at a port other than the shipment's designated port of exit, either proof of the shipper's consent to the inspection must be furnished or a complete set of transportation documents must accompany the shipment to evidence that exportation of the goods is imminent and that the goods are committed to export, thereby, making them subject to Customs examination.

3. In § 118.4, paragraph (g) is amended by adding a new second sentence to read as follows:

§ 118.4 Responsibilities of a CES operator.

* * * * * * *

(g) * * * The CES operator will accept and keep safe all merchandise delivered to the CES for examination. * * *

* * * * * * *

4. In § 118.11, the second sentence in paragraph (b) is amended by removing the words ", and the port director may allow, up to an additional

30 calendar days after tentative selection to conform the facility to such requirements, but in such a case the agreement referred to in § 118.3 of this part shall not be executed until those requirements are met" and adding, in their place, the words "time to conform the facility to such requirements. The agreement referred to in § 118.3 of this part shall not be executed, in any event, until the facility is conformed to meet the requirements"; and paragraph (g) is amended by removing the words ", or a commitment to acquire that knowledge".

SAMUEL H. BANKS,
Acting Commissioner of Customs.

Approved: June 3, 1997.
JOHN P. SIMPSON,
Deputy Assistant Secretary of the Treasury.

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